

F I L E D  
Clerk  
District Court

MAY - 7 2008

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS

JOHN S. PANGELINAN,	)	Civil No. 08-0004
	)	
Plaintiff	)	
	)	
v.	)	ORDER DENYING
	)	“OBJECTIONS” TO
DAVID A. WISEMAN, <i>et al.</i> ,	)	LATE FILINGS
	)	
Defendants	)	
	)	

THE COURT construes Plaintiff's various Motions/Objections [Docket Nos. 21, 49, 51, 60, and 61] to purported late filings by Defendants as motions to strike the pleadings and enter default. So construed, the Objections/Motions are denied.

1 No defaults have been entered and no pleadings stricken from the record.  
2 However, even if defaults had been entered, Federal Rule of Civil Procedure 55(c)  
3 provides that a court may set aside entry of default for “good cause shown.” The  
4 “good cause” standard that governs entry of default under Rule 55(c) is the same  
5 standard as that for vacating a default judgment under Rule 60(b). *Franchise Holding II*  
6 v. *Huntington Restaurants Group, Inc.*, 375 F.3d 922 (9th Cir. 2004), *citing TCI Group Life*  
7 *Ins. Plan v. Knoebber*, 244 F.3d 691, 696 (9th Cir. 2001). Three factors are considered:  
8 the culpable conduct of defendant, whether defendant has a meritorious defense, and  
9 the prejudice to plaintiff if entry of default is set aside. *Id.* at 925-926.  
10  
11

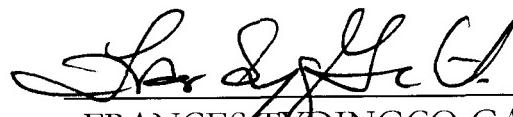
12 Assuming Plaintiff’s facts are correct as alleged, certain of Defendants’ filings  
13 were late by anywhere from one to four days. There is no allegation of culpable  
14 conduct by Defendants in filing their Motions late; indeed, the court can envisage no  
15 benefit to Defendants for intentionally filing late. As to the second factor, a  
16 preliminary reading of the late filings supports the Court’s initial assessment that all  
17 Defendants have meritorious defenses to Plaintiff’s Complaint. Finally, there appears  
18 to be no prejudice to Plaintiff by denying his Objections/Motions and, indeed, he  
19 makes no colorable claim of prejudice. The omnibus hearing on all pending motions  
20 in this matter was set for Wednesday, May 7, 2008. Plaintiff filed the first of his  
21 Objections/Motions on February 26, 2008 [Docket No. 21], and the last on May 2,  
22 2008 [Docket No. 61]. Had Plaintiff shown prejudice and requested more time to  
23  
24  
25  
26

1 respond, it would have been granted to him.

2 Given the foregoing, the Court finds that the law does not support striking any  
3 late filing or entering default against any Defendant. Accordingly, Plaintiff's  
4 Motions/Objections are denied.

5  
6 IT IS SO ORDERED.  
7

8 DATED this 7<sup>th</sup> day of May, 2008.  
9  
10

11   
12 FRANCES TYDINGCO-GATEWOOD  
13 Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26